

REMARKS/ARGUMENTS

Applicant appreciates the Examiner's continued search and examination of the present patent application. Claims 1-7 and 9-33 stand pending in the application.

At paragraphs 3 and 4 of the August 10, 2005 Office Action, a correction to the abstract is required. Accordingly, the abstract has been amended (i.e., the abstract has been shortened). Applicant submits that the abstract is now in an acceptable format.

The applicant appreciates the Examiner withdrawing the previous rejection to claims 8, 13, 28 and 33 under 35 U.S.C. §112, second paragraph.

Claims 1, 9, 11-12, and 14-25 stand rejected under 35 U.S.C. §102(e) as being anticipated by Lin et al. ("Lin," U.S. Patent No. 5,949,415). Applicant respectfully traverses this rejection.

As noted in applicant's previously filed (May 26, 2005) amendment and response, applicant's claim 1 is an improvement over prior art software auditing computer programs. Prior art software auditing systems typically retrieve large volumes of data and require excessive processing resources and time in order to report usage of various software modules and tasks. Applicant's claim 1 improves upon prior art software auditing systems by filtering out redundant and/or undesirable information that are typically reported in prior art systems. More particularly, applicant's claim 1 filtering facility is effective "to filter at least one previously identified program from...load module execution information" that is collected by applicant's claim 1 monitor (emphasis added).

In the Office Action, particularly at paragraph 3, page 16, the Examiner states that Lin "clearly discloses a filtering facility ('detecting step', 'extracting an identifier') that is effective to filter known system programs from the load module execution information system." The Examiner cites to column 9, lines 49-53 (claim 8) and column 10, lines 11-15 (claim 13) of Lin for support. The Examiner emphasizes the language of Lin's claim 8 wherein "the operating system maintains a system task list identifying active tasks and subtasks, said detecting steps comprising interrogating the system task list and extracting an identifier for an active task or subtask."

Applicant respectfully submits that, contrary to the Examiner's characterization, Lin does not teach or suggest elements of applicant's claim 1, including applicant's claim 1 monitor, filtering facility and correlator. According to Lin, the operating system maintains a system task list that identifies active tasks and subtasks. Applicant's claim 1, in contrast, defines that the monitor (not the operating system) collects load module execution information. Also and distinct from Lin, the claim 1 filtering facility filters at least one previously identified program from the load module execution information. Thus, no such monitor and no filtering facility is disclosed, taught or suggested in Lin.

In particular, Lin's detecting steps merely extract identifiers from a system task list, which lists active tasks by the operating system. No separate facility is taught or suggested by Lin that collects load module execution information by a monitor and filters by a filtering facility at least one identified program from the load module execution information. Merely extracting identifiers from a list of active tasks is not tantamount to filtering programs from collected load module execution information.

With respect to the second portion of Lin cited by the Examiner, column 10, lines 11-15 (claim 13) recites "means for tracking information relating to execution of the task or a subtask acted upon by the operating system and combining said information with information relating to execution of all other tasks or subtasks associated with the application program." Claim 13, and in particular the respective portion cited by the Examiner is classic means-plus-function language, and in accordance with 35 U.S.C. §112, sixth paragraph, "shall be construed to cover the corresponding structure...described in the specification and equivalents thereof." Applicant respectfully submits that no description or structure is set forth anywhere in Lin's specification that would teach or suggest applicant's claim 1 "monitor" and "filtering facility" to one skilled in the art. For the foregoing reasons, therefore, applicant respectfully submits that Lin does not teach or suggest elements of applicant's claim 1, and, accordingly, does not anticipate under 35 U.S.C. §102(e).

Applicant's independent claims 15 and 22 include similar limitations and, therefore, are also not anticipated by Lin.

Claims 2-7, 10, 13, and 26-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lin in view of Johnson (U.S. Patent No. 6,788,980). Claims 28-33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lin in view of Evans (U.S. Patent No. 6,430,708). Applicant respectfully traverses these rejections.

Applicant notes that independent claims 22, 26 and 28 also include the above-described claim 1 limitations, particularly the "monitor" and "filtering facility." Applicant respectfully submits that neither Johnson nor Evans teaches or suggests at least applicant's claimed monitor and filtering facility that is missing from the teachings of Lin. Therefore, for at least the reasons set forth above, claims 2-7, 10, 13 (which depend directly or indirectly from claim 1), claim 27 (which depends from claim 26), and claims 29-33 (which depend from directly or indirectly from claim 28) clearly define over the prior art, including the combinations of Lin and Johnson, and Lin and Evans.

For the foregoing reasons, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on August 24, 2005:

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August 24, 2005
Date of Signature

MM:JJF:ck

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